

REMARKS

Claims 1-15 are pending. Claims 16 through 41 have been withdrawn. Claims 1 and 11 are amended and new claim 42 is added.

The Examiner has objected to the Abstract of the Disclosure for including the phrase "The invention is". In accordance with the foregoing amendment, Applicant has removed the objected phrase.

Claims 1-15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Norton (US 2004/0243183) in view of Muffoletto (U.S. 5,926,362). An affidavit timely filed by the Applicant will establish, under 37 CFR 1.131, an invention date of the pending claims prior to the filing date of Norton, thereby removing the reference as prior art. Accordingly, Applicant respectfully requests withdrawal of the rejection based on the combination of Norton and Muffoletto.

Claims 1-15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Harguth (6,283,985) in view of Muffoletto or Mileham (U.S. 6,850,405). Applicant notes that the Patent Number, U.S. 6,283,985, cited by the Examiner for Mileham is incorrect; Applicant assumes that the Examiner intended to cite U.S. Patent No. 6,850,405 to Mileham et al. An affidavit timely filed by the Applicant will establish, under 37 CFR 1.131, an invention date of the pending claims prior to the filing date of Mileham, thereby removing the reference as prior art.

Claim 1 relates to a medical device including circuitry to control delivery of a high voltage electrical therapy to a patient and an electrolytic capacitor to store charge for use in the delivery of the high voltage electrical therapy. The device includes a first anode mechanically coupled to and electrochemically anodized within a first encasement shell...a second anode mechanically coupled to and electrochemically anodized within a second encasement shell... and a cathode disposed between the first anode and the second anode and within the first and second encasement shells. Harguth discloses a method for reforming an

electrolytic capacitor in an implantable defibrillator. Harguth fails to teach or suggest any specific arrangement or configuration of the electrolytic capacitor.

Muffoletto discloses a capacitor that may be an electrochemical capacitor or an electrolytic capacitor. In Figure 12, the electrode active material 42 is provided on case side walls 132 and 134 to form a cathode electrode. An anode 12 is housed inside the casing and is shown between the electrode active material 42. Nowhere does Muffoletto teach, suggest or imply an electrolytic capacitor having first and second anodes within first and second encasement shells, respectively, and a cathode disposed between the first and second anodes. The Examiner contends that Muffoletto shows a configuration of a cathode sandwiched between a first and second anode since the configuration shown (anode between cathode material) can be manipulated by changing the metals used to form the anode, cathode and encasement. The Applicant respectfully traverses. While Muffoletto describes both electrochemical and electrolytic capacitors and that various materials may be used for the anodes and cathodes in such capacitors, Muffoletto makes no suggestion, express or implied, that the anode and cathode in an electrolytic capacitor can be reversed. Applicant respectfully asserts it would be apparent to one having ordinary skill in the art that electrolytic capacitors are designed with a specific polarity to maximize energy density and that merely interchanging the anode and cathode materials in an electrolytic capacitor intended to store charge for use in delivering a high voltage electrical therapy would render the capacitor inoperable. Accordingly, the Applicant asserts that the mere reversal of the anode and cathode material, as suggested by the Examiner, in the capacitor taught by Muffoletto would not produce an electrolytic capacitor functional for storing charge for use in delivering a high voltage electrical therapy. As such, Applicant submits the pending claims would not be obvious to one having skill in the art based on the combination of Harguth and Muffoletto.

Applicant respectfully requests that the U.S.P.T.O. provide support for the rejection of claims 4 through 15 as found in the cited prior art. While claims 4 through 15 have been indicated as rejected, Applicant does not find support for the rejection of these claims in the Detailed Action.

Applicant respectfully asserts that the present claims are in condition for allowance. Withdrawal of the instant rejections and issuance of a Notice of Allowance is respectfully requested.

Respectfully submitted,

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Date

/Carol F. Barry/
Carol F. Barry
Reg. No. 41,600
(763) 514-4673
Customer No. 27581